

Kenneth Derheim vs. Tacoma Screw Products

Filed: 10/22/2020

Subtype: Wrongful Discharge

Status History

Open

10/22/2020

Plaintiffs

Pl. no. 1

Derheim, Kenneth

Attorneys

Warren, Adam

(Primary attorney)

Send Notices

Defendants

Def. no. 1

Tacoma Screw Products

Judge History

Date	Judge	Reason for Removal
10/22/2020	Davies, Colette B.	Current

Register of Actions

Doc. Seq.	Entered	Filed	Text	Judge
1.000	10/23/2020	10/22/2020	Complaint And Jury Demand	Davies, Colette B.
2.000	10/23/2020	10/22/2020	Summons: R &F : 10/29/2020 Served: 10/26/2020	Davies, Colette B.

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Adam.Warren@moultonbellingham.com

Attorneys for Plaintiff

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

KENNETH DERHEIM,

Plaintiff,

-vs-

TACOMA SCREW PRODUCTS, INC., a
Washington Corporation.

Defendant.

DV 20.1385
Cause No. DV _____

Judge Colette B. Davies

**COMPLAINT AND JURY
DEMAND**

Plaintiff Kenneth "Bo" Derheim ("Bo" or "Plaintiff"), by and through his attorneys of record, alleges against Defendant Tacoma Screw Products, Inc. ("Defendant" or "TSP") the following:

PARTIES, JURISDICTION, AND VENUE

1. Bo is an individual who resides in Yellowstone County, Montana.
2. Defendant is a Washington corporation registered to do business in Montana, which operates a supply store in Billings, Yellowstone County, Montana.
3. This Court has personal jurisdiction over Defendant because they are a foreign profit corporation registered to do business in Montana with a place of business in Yellowstone County, Montana.

4. Venue is proper in this county because the facts and circumstances that give rise to this lawsuit occurred in Yellowstone County, Montana, and Defendant's actions giving rise to this lawsuit arose in Yellowstone County, Montana, as well.

5. This Court has subject matter jurisdiction to hear this case since it arises under Montana law.

FACTUAL ALLEGATIONS

6. Bo was employed by TSP as a salesman until July 28, 2020, when he received notice of his termination.

7. Prior to his wrongful termination, Bo was a very successful salesman and productive employee of TSP for approximately 4 ½ years.

8. Bo had not been subject to disciplinary action prior to his termination.

9. Bo was informed by Defendant, through a phone call from Mr. Steve Bartkus, his direct supervisor in Washington, that his employment was being terminated and TSP was going a different direction.

10. No cause nor legitimate reason whatsoever was provided to Bo during his termination.

11. Bo was not within his probationary period of employment.

12. Defendant did not provide Bo with any written documentation of his termination and did not give him an opportunity to respond to his termination.

13. Mr. Bartkus, at 8:15 in the morning, via one single telephone call, told Bo to turn in his equipment and leave.

14. Defendant lacked "good cause" as defined by Montana law when they terminated Bo from his employment.

COUNT I – WRONGFUL DISCHARGE

15. Bo realleges and reincorporates all previous allegations.

16. On July 28, 2020, Defendant wrongfully discharged Bo from his employment in violation of Montana law, specifically the Montana Wrongful Discharge from Employment Act, § 39-2-901, MCA, et seq., in that:

- a. The discharge was not for “good cause;”
- b. Bo was past his probationary period;
- c. As a result of TSP’s wrongful discharge of his employment, Bo suffered lost wages and lost fringe benefits together with legal interest at the applicable statutory rate from the time of his discharge; and
- d. Defendant did not provide Bo with a copy of any grievance procedure in writing within seven days of his discharge as required by § 39-2-911(3), MCA, thus Bo is not required to exhaust any grievance procedure that Defendant may have maintained.

WHEREFORE, Plaintiff respectfully requests the following relief:

- A. Judgment for Plaintiff and against Defendant on all counts set forth in this Complaint;
- B. All lost wages, fringe benefits, and legal interest at the applicable statutory rate on any amounts recovered during this proceeding;
- C. An award of his reasonable costs, including attorneys’ fees, as allowed by law; and
- D. Such other and further relief as the Court deems just, proper, and equitable.

PLAINTIFF DEMANDS A TRIAL BY JURY

DATED this 22nd day of October, 2020.

MOULTON BELLINGHAM PC

By: 

ADAM WARREN

27 North 27th Street, Suite 1900

P.O. Box 2559

Billings, Montana 59103-2559

ATTORNEYS FOR PLAINTIFF

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Attorneys for Plaintiff

CLERK OF THE
DISTRICT COURT
TERRY HALPIN

2020 OCT 29 P 3 45

FILED

BY _____
DEPUTY

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

KENNETH DERHEIM,

Plaintiff,

-vs-

TACOMA SCREW PRODUCTS, INC., a
Washington Corporation.

Defendant.

DV 20.1385
Cause No. DV _____

Judge Colette B. Davies

SUMMONS

TO: Eric Niesz
Registered Agent
4540 South Frontage Road
Billings, Montana, 59101

A lawsuit has been filed against you.

Within 21 days after service of this Summons on you or (42 days if you are the State of Montana, a state agency, or a state officer or employee), you must serve on Plaintiff an answer to the attached Complaint or a motion under Rule 12 of the Montana Rules of Civil Procedure. Do not include the day you were served in your calculation of time. The answer or motion must be served on Plaintiff or Plaintiff's attorney, if Plaintiff is represented by an attorney, whose name and address are listed above.

MOULTON BELLINGHAM PC
ATTORNEYS AT LAW

If you fail to respond, judgment by default will be entered against you for the relief demanded in the Complaint.

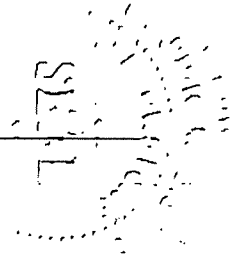
You also must file your answer or motion with the Court.

DATED this 22 day of October, 2020.

TERRY HALPIN
Clerk of District Court

(COURT SEAL)

By Jam Owens
Deputy Clerk



CLERK OF THE
DISTRICT COURT
JERRY HALPIN

2020 OCT 22 P 4:27

FILED

BY _____
DEPUTY



RETURN OF SERVICE

STATE OF MONTANA)

) : ss

Case No. DV 20-1385

County of Yellowstone)

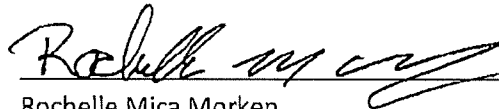
I HEREBY CERTIFY that I received the annexed SUMMONS, COMPLAINT AND JURY DEMAND on the 26th day of October, 2020, and that I personally served the same upon Reuben Miner, Manager, authorized to accept on behalf of Registered Agent Eric Niesz for Tacoma Screw Products, Inc., by delivering a copy of said documents on the 26th day of October, 2020, at the hour of 2:06 PM, at 4540 South Frontage Road, Billings in the County of Yellowstone, State of Montana.

DATED at Billings, Montana, this 27th day of October, 2020.

SERVICE: \$55.00

MILEAGE: \$5.00

TOTAL: \$60.00



Rochelle Mica Morken

Licensed Process Server #31949

State of Montana

G N ACCOUNT SERVICES, INC

P.O. Box 50099

Billings, Montana 59105

(406) 256-5389

SWORN AND SUBSCRIBED to before me this 27th day of October, 2020.

